



RESOLUTION NO. 2010-292

RESOLUTION OF THE CITY OF FRESNO DECLARING ITS INTENTION TO FORM A CONTRACTUAL ASSESSMENT DISTRICT AND PARTICIPATE IN THE CALIFORNIA PACE PROGRAM TO FINANCE DISTRIBUTED GENERATION RENEWABLE ENERGY SOURCES AND ENERGY AND WATER EFFICIENCY IMPROVEMENTS FOR PROPERTY WITHIN THE CITY PURSUANT TO CHAPTER 29 OF PART 3 OF DIVISION 7 OF THE CALIFORNIA STREETS AND HIGHWAYS CODE AND SETTING A PUBLIC HEARING THEREON

WHEREAS, the City of Fresno (the "City") is a municipal corporation organized and existing pursuant to the laws of the State of California; and

WHEREAS, the Pacific Housing & Finance Agency (the "PHFA") is a joint powers financing agency and has established an Energy and Water Efficiency Program (the "Program") pursuant to Chapter 29 of Part 3 of Division 7 of the California Streets and Highways Code (the "Act"); and

WHEREAS, through the California PACE – California Property Assessed Clean Energy and Water Efficiency Program, the PHFA facilitates voluntary assessment financing to property owners within PHFA's participating member jurisdictions for the financing of distributed generation renewable energy sources and energy and water saving property improvements; and

WHEREAS, pursuant to the Act and the Program, PHFA requires its participating member jurisdictions to form a contractual assessment district, and the PHFA will finance participating property owners energy efficiency, distributed renewable energy and water efficiency improvements within the assessment district through PHFA funds secured by an assessment lien on the subject property; and

WHEREAS, the Program provides for the PHFA bond funding and administration of the assessment district for its member jurisdictions, without obligating the member jurisdiction's general fund, bonding capacity, or taxing authority; and

WHEREAS, issuance of bonds will occur following receipt of final judgment in a validation action filed by PHFA pursuant to Code of Civil Procedure section 860 that the bonds are legal obligations of PHFA; and

WHEREAS, the City is a member of the PHFA and desires to declare its intention to form a contractual assessment district and take the steps necessary for the creation of such assessment district, and participation in the California PACE Program.

Adopted 12.16.10
Approved 12.16.10
Effective 12.16.10



**NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF FRESNO
HEREBY FINDS, DETERMINES, RESOLVES AND ORDERS, AS FOLLOWS:**

Section 1. The City Council hereby finds and determines:

(a) Energy and water conservation efforts, including the promotion of energy and water efficiency improvements to residential, commercial, industrial, or other real property, will generate costs savings and promote local employment.

(b) The upfront cost of making residential, commercial, industrial or other real property more energy and water efficient prevents many property owners from making those improvements. To make those improvements more affordable and to promote the installation thereof, the Legislature has authorized an alternative procedure pursuant to Act to finance said improvements by the creation of contractual assessment districts.

(c) It is in the public interest of the City to authorize creation of an assessment district for the installation of distributed generation renewable energy sources and energy and water efficiency improvements which are permanently fixed to residential, commercial, industrial, or other real property.

Section 2. The City Council hereby declares its intention to form a contractual assessment district pursuant to the Act for the purposes set forth in Section 1 hereof. The assessment district shall be for the purposes of providing the installation of distributed generation renewable energy sources and energy and water efficiency improvements that are permanently fixed to qualifying real property, including but not limited to: high efficiency air conditioning and ventilation systems, high performance windows, high efficiency pool equipment, high efficiency water heating equipment, photovoltaic and thermal solar energy systems, zoning control and energy management control systems, high efficiency irrigation pumps and controls and natural gas fuel cells, wind and geothermal energy systems, wall, ceiling and roof insulation upgrades, water savings equipment and dual pane windows.

Section 3. The City Council further determines that the boundaries of the assessment district established pursuant to the Act shall be the geographical boundaries of the City.

Section 4. The assessment district shall be financed solely by the issuance of bonds of the Pacific Housing & Finance Agency, a joint powers authority pursuant to the Pacific Housing & Finance Agency California PACE Program. The principal and interest on the Bonds shall be secured by the payments of the contractual assessments and the assessment liens on the real property upon which the improvements are placed. Property owner creditworthiness shall be determined by Program criteria including legal ownership interest, equity, and condition of title. The assessments shall be collected at the same time and in the same manner as the general taxes of the City. The assessment shall be subject to the same penalties and lien priorities as the general taxes of the City in the event of delinquency and default. In the event of a delinquency in the payment of assessments by a property owner, the PHFA may commence proceedings to foreclose the assessment lien on the property in the manner provided by law and consistent with the Program requirements. Interest on the Bonds shall not exceed the current legal maximum of

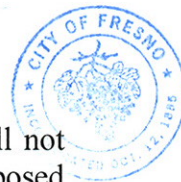


12% per year or such other amount authorized by law. The maturity date of the Bonds shall not exceed the life of the equipment financed.

Section 5. The City Council hereby directs the City Manager/designee(s) thereof and each of them ("Authorized Officer") to prepare, or cause to be prepared, and file with the City Council a report pursuant to Section 5898.22 of the California Streets and Highways Code (the "Report") at or before the time of the public hearing described in Section 6 hereof. The Report shall contain all of the following:

- (a) A map showing the City boundaries as the boundaries of the assessment district.
- (b) A draft contract between the property owner and PHFA.
- (c) A statement of the City policies concerning voluntary contractual assessments including all of the following:
 - (i) Identification of types of facilities, distributed generation renewable energy sources, or energy efficiency improvements that may be financed through the use of contractual assessments;
 - (ii) Identification of a city official authorized to direct the Executive Director of the PHFA to enter into contractual assessments on behalf of the assessment district;
 - (iii) A maximum aggregate dollar amount of contractual assessments;
and
 - (iv) A method for setting requests from property owners for financing through contractual assessments in priority order in the event that requests appear likely to exceed the authorization amount.
- (d) The plan of bond financing by the PHFA pursuant to Streets and Highways Code Section 5898.28. The plan shall include a statement of, or method for, determining the interest rate and time period during which contracting property owners would pay any assessment. The plan shall provide for any reserve fund or funds. The plan shall provide for the apportionment of all or any portion of the costs incidental to financing, administration, and collection of the voluntary contractual assessments under the Program among the consenting property owners and the assessment district.

Section 6. The City Council hereby authorizes noticing a public hearing to be held on January 13, 2011, at 10 AM, or as soon thereafter as feasible, at the Council Chambers, 2600 Fresno Street, Second Floor, Fresno, California 93721, on the proposed Report and the assessment district. At the public hearing, all interested persons may appear and hear and be heard and object to or inquire about the proposed voluntary contractual assessment financing program or any of its particulars. The City Clerk is hereby directed to provide (i) notice of the public hearing by publishing this Resolution once a week for two weeks, pursuant to Section



6066 of the California Government Code, in the Fresno Bee and the first publication shall not occur later than 20 days before the date of such hearing, (ii) written notice of the proposed Program to all water and electric providers not less than 60 days prior to adoption of any district formation resolution.

Section 7. The City Council hereby directs the Authorized Officer of the City to enter into consultations with the County of Fresno Auditor-Controller's Office in order to reach an agreement with the County regarding the collection of the contractual assessments by the County on the tax roll. Any additional fees to be charged to the City, and any plan for financing such fees, shall be included in the Report in Section 5 above.

Section 8. This resolution shall take effect immediately upon its final adoption.

I, REBECCA E. KLISCH, City Clerk of the City of Fresno, certify that the foregoing resolution was adopted by the Council of the City of Fresno, California, at a regular meeting thereof, held on the 16th day of December, 2010.

AYES: Borgeas, Brand, Dages, Olivier, Sterling, Westerlund
NOES: None
ABSENT: Xiong
ABSTAIN: None

REBECCA E. KLISCH
City Clerk

By: Rebecca E. Klisch
Deputy Date 12-20-10

APPROVED AS TO FORM:

JAMES C. SANCHEZ
City Attorney

By: R 12-29-10
Robert R. Coyle Date
Senior Deputy